

# USAID

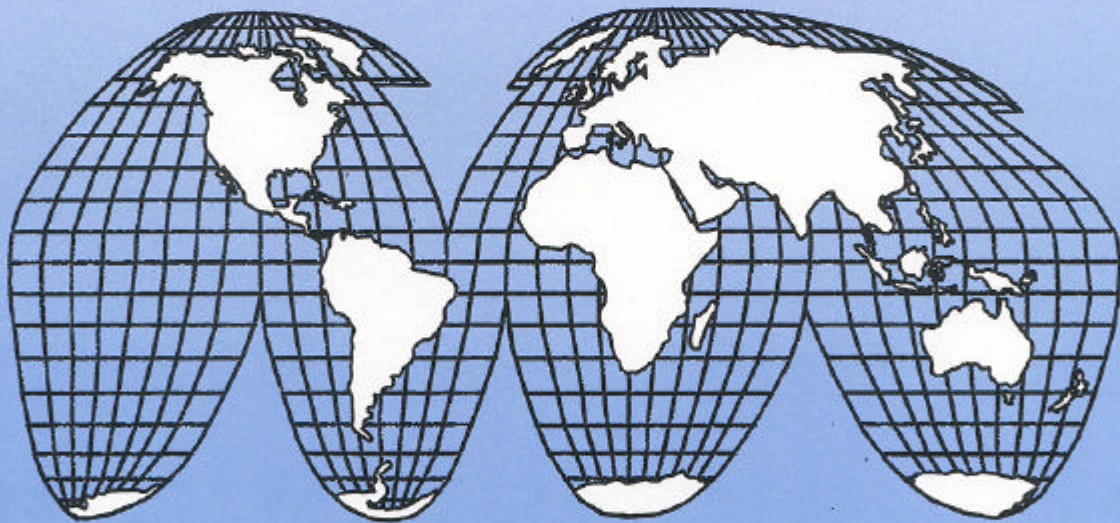
## OFFICE OF INSPECTOR GENERAL

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### **Audit of Contracting Officers' Independence at Selected USAID Missions Overseas**

**Audit Report Number 9-000-02-002-P**

**January 10, 2002**



**U.S. Agency for International Development  
Washington, D.C.**



*PERFORMANCE AUDIT DIVISION*

January 10, 2002

## **MEMORANDUM**

**FOR:** M/OP, Mark S. Ward

**FROM:** IG/A/PA Director, Dianne L. Rawl

**SUBJECT:** Audit of Contracting Officers' Independence at Selected  
USAID Missions Overseas (Report No. 9-000-02-002-P)

This is our final report on the subject audit. Your comments on the draft report have been included, in their entirety, in Appendix II on page 11.

This report does not contain any recommendations for your action. I appreciate the cooperation and courtesy extended to my staff during the audit.

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## **Summary of Results**

This audit was conducted at Congressional request to determine whether contracting officers' (COs) independence in making procurement decisions had been impaired by organizational and reporting structures at selected USAID missions overseas. The audit found that the organizational and reporting structures did not impair COs' independence in making procurement decisions (see page 4).

The audit identified several operating structures and processes that both comply with Federal law, regulation, or agency policy and enhance the independence of contracting officers assigned to USAID missions, including:

- The placement of contracting officers at a level that ensures their access to senior mission management and parity with other senior managers involved with procurement decisions (see page 5).
- A process that solicits and considers input from multiple sources on contracting officers' performance (see page 5).
- The availability of the USAID Procurement Executive, located in Washington, D.C., to provide input to procurement decisions and performance evaluations (see page 5).
- The placement of contracting officers on Strategic Objective teams, providing them frequent opportunities to advise USAID staff on procurement requirements (see page 6).

The Director of the Office of Procurement concurred with the findings of our report.

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## **Background**

Since the 1970s, USAID has refocused its responsibilities from directly implementing social sector projects to planning, financing, and monitoring such projects implemented by host countries, contractors, and grantees. USAID's dependence on its procurement staff is critical to the successful implementation and administration of its foreign assistance programs. As of August 2001, USAID employed 48 overseas contracting officers posted at 30 separate missions. These contracting officers often operate in difficult environments and under evolving program demands.

An essential consideration in every aspect of an acquisition system is maintaining the public's trust. Not only must the system have integrity, but also

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the actions of each member of the contracting team must reflect integrity, fairness, and openness.<sup>1</sup> Inherent to these attributes is the ability for contracting officers to make procurement decisions in an independent manner and without undue influence by senior management.

The head of each executive agency is responsible for establishing clear lines of authority, accountability, and responsibility for procurement decision making within their respective agency. This includes placing the procurement function at a sufficiently high level in the executive agency to provide: (1) direct access to the head of the major organizational element of the executive agency served, and (2) comparative equality with organizational counterparts.<sup>2</sup>

USAID employs two different organizational management structures in its placement of contracting officers. In USAID/Washington, contracting officers are assigned to the Office of Procurement. Overseas, USAID's senior contracting officers report to senior mission management.

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## **Audit Objective**

In response to a Congressional inquiry, the Performance Audit Division of OIG/Washington designed the audit to answer the following question:

**Did the organizational and reporting structures at selected USAID missions impair contracting officers' independence in making procurement decisions?**

Appendix I contains a discussion of the scope and methodology for this audit.

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## **Audit Finding**

**Did the organizational and reporting structures at selected USAID missions impair contracting officers' independence in making procurement decisions?**

The audit concluded that the organizational and reporting structures did not impair contracting officers' independence in making procurement decisions.

As discussed in more detail below, we identified several operating structures and processes that enhance the independence of contracting officers assigned to USAID missions.

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<sup>1</sup> Federal Acquisition Regulations 1.102-2 Performance Standards

<sup>2</sup> 41 USC Chapter 7 Office of Federal Procurement Policy

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**Organizational Placement:** Section 414, Title 41, United States Code, requires that federal agencies place the procurement function at a level that ensures its direct access to the head of the organizational element of the executive agency that it is serving. In 1990, the General Accounting Office (GAO) reviewed USAID's overseas contracting function and questioned the independence of overseas contracting officers, in part because the function was not placed at a sufficiently high level in the mission organization structure. At the time of the GAO study, over 40 percent of USAID's overseas contracting officers reported to an official lower than the deputy mission director. As a result, according to the then USAID Competition Advocate, contracting officers were not: (1) in a position to participate equally with other senior mission officers in program procurement decisions, and (2) routinely included in meetings in which key procurement decisions were made.

In contrast to the relatively low-level organizational placement of overseas contracting officers in 1990, we verified with 29 of the 30 missions, during our audit, that there are no senior contracting officers reporting to a level lower than the mission or deputy director. This arrangement appears to both meet the intent of Section 414, Title 41 of the United States Code, and provide overseas contracting officers the access and status they need to secure independence in their operations.

**Evaluation Process:** To further enhance the independence of overseas contracting officers, GAO recommended that the annual performance ratings of these employees be reviewed and approved by USAID's Procurement Executive. By 2001, however, because of other changes in the agency-wide employee evaluation process, routine intervention by the Procurement Executive no longer appears necessary to secure the independence of overseas contracting personnel.

USAID's annual evaluation process for all employees, including contracting officers, requires rating officials to obtain and consider comments from a variety of sources, including the employee self-assessments, peers, members of strategic objective teams, managers from other missions (if applicable), and subordinates. During this audit, each of the 27 supervisory contracting officers interviewed stated that the deputy mission director or mission director prepared his or her annual performance evaluation and that the evaluation was based on the 360 degree input process. Feedback from multiple sources not only provided information about the contracting officers' performance on negotiated work objectives and general skill areas, it also reduced the potential for one person's bias to skew into the employee's performance evaluation.

**Role of the Procurement Executive:** Executive Order 12931 requires USAID's Procurement Executive to: (1) oversee the development of procurement goals, guidelines, and innovation, and (2) measure and evaluate procurement office performance against stated goals. To implement the

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evaluation requirement, USAID's Procurement Policy Evaluation and Support Division periodically evaluated the contracting system of each procurement office, typically on a three-year cycle.

Evaluations consisted of a combination of:

- Extensive interviews with the contracting officers to assess how procurement actions were managed;
- Detailed interviews with the missions' executive officers;
- Interviews with strategic team leaders, controllers, program personnel and the missions' Competition Advocate;
- In-depth reviews of the procurement process from initial planning through competition, selection, award and administration;
- Reviews of a sample of individual contract and assistance awards; and
- Exit briefings to mission directors on specific areas and/or trends observed by the evaluation team for correction and/or improvement.

Auditors reviewed the working papers and evaluation reports prepared by the Procurement Policy Evaluation and Support Division for 16 missions during a 21-month period. The auditors found no indication in these files and reports of any instance in which the independence of any contracting officer in any procurement action had been questioned.

In our opinion, these internal technical evaluations are a valuable internal control that reviews the quality of work performed by USAID's contracting officers, reminds mission directors of their responsibilities for the integrity of the contracting activities for which they are responsible, and, through the threat of disclosure of irregularities, provides a deterrent to potential efforts to exert undue influence on contracting officers.

In addition, the auditors' interviews confirmed that overseas contracting officers believe they are able to call upon the USAID Procurement Executive to intervene in procurement decisions, and that this option provides additional protection from undue influence by senior management.

**Team Approach:** USAID policy requires the head of each Operating Unit to establish a strategic objective team to plan and manage activities aimed at achieving each approved strategic objective. The contracting officers participate with the teams in managing the development and procurement activities. In addition to the stated benefits of enhancing the delivery of

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development assistance, these actions serve to enhance the independence of the contracting function.

Auditors interviewed 30 contracting officers posted at 29 of the 30 missions where USAID assigned contracting officers. The contracting officers stated that their level of involvement in team activities varied according to the complexity and significance of the procurement issues that surfaced. In some cases they simply provide advice, in other situations they might draft extensive documents. The contracting officers also stated that each of the missions they supported used procurement plans. They said that, although they initiated the procurement plans, most decisions concerning the procurement plans were a collaborative effort with the strategic objective teams. However, the contracting officers stated that they have the final authority on all procurement-related decisions and will exercise that authority if required. Because of their involvement on these teams, contracting officers were able to routinely provide advice and guidance to mission officials to ensure compliance with regulatory laws and USAID policies. Contracting officers believed that knowledgeable mission officials were less likely to take or recommend inappropriate actions that could be considered an attempt to impair the independence of the procurement function.

**Conclusion:** In the auditors' opinion, a collection of processes or organizational structures required by law, regulation or policy, serve to help USAID's overseas contracting officers preserve their independence. These include:

- The placement of contracting officers at a level that ensures their access to senior mission management and parity with other senior managers involved with procurement decisions.
- A process that solicits and considers input from multiple sources on contracting officers' performance.
- The availability of the USAID Procurement Executive, located in Washington, D.C., to provide input to procurement decisions and performance evaluations.
- The placement of contracting officers on Strategic Objective teams, providing them frequent opportunities to advise USAID staff on procurement requirements.

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## Other Matters

During our interviews, some contracting officers cited a problem that, although not an impairment to their independence, was an impediment to the



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procurement process. When asked whether senior management and strategic objective team members understood the legal and ethical responsibilities underlying the procurement function, the majority of those interviewed believed that they did. However, some contracting officers believed that there was a continual need to educate officials designated as cognizant technical officers (CTOs) as to their roles and responsibilities in contract and assistance administration.

Eight of the 30 contracting officers interviewed stated CTOs needed more training to fulfill their designated responsibilities. They described situations when the technical office and the contracting function had different agendas, which caused conflicts. Some said that, because they were ultimately responsible for the procurement actions and ensuring compliance with USAID and procurement regulations, they had found it necessary to perform program responsibilities that should have been performed by CTOs. They added that CTOs either did not understand what was required of their positions, or sometimes chose not to do it.

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**Management  
Comments  
and our  
Evaluation**

The Director of the Office of Procurement concurred with the findings of our report. This report does not contain any recommendations. Management's comments are included in their entirety in Appendix II.

**Scope and  
Methodology****Scope**

The Performance Audit Division of the Office of Inspector General conducted an audit to determine whether contracting officers' independence in making procurement decisions had been impaired by organizational and reporting structures at selected USAID missions. The audit was conducted in accordance with generally accepted government auditing standards. Audit fieldwork was conducted between August 2001 and October 2001 at USAID/Washington. In addition, telephone interviews were conducted with USAID overseas contracting officers.

The scope of this audit was designed to:

- Follow-up with a prior GAO recommendation in its October 1990 GAO/NSIAD-91-31 report recommending that:

USAID enhance the independence of overseas contracting officers by requiring that annual performance ratings of overseas contracting officers be reviewed and approved by USAID's Procurement Executive.

- Review the organizational and reporting structures for contracting officers at selected overseas missions.
- Obtain feedback from selected overseas contracting officers on whether the reporting and job performance evaluation processes at their missions enable them to perform their responsibilities in an independent manner.
- Identify and determine USAID's compliance with laws, regulations, and policies designed to ensure the independence of contracting officers.

**Methodology**

To accomplish the audit objective, we reviewed USAID's Office of Procurement's Policy Evaluation and Support Division's contracting evaluation files and reports issued for 16 reviews performed over a 21-month period. The Policy Evaluation and Support Division conducted these reviews in response to Executive Order 12931 of the President's Federal Procurement Reforms, which requires U.S. Government Agency Procurement Executives to develop a system for evaluating the Agency's contracting system against approved criteria and to advise the head of the Agency that the system met the criteria. The objective of

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this audit procedure was to determine if internal procurement evaluations had identified instances in which the independence of any contracting officer in any procurement action had been questioned.

Furthermore, we interviewed (via telephone) contracting officers located at 29 missions. We judgmentally sampled 30 officers representing 63 percent of the 48 assigned overseas. Twenty-seven of the 30 served as the missions' supervisory contracting officer. The remaining three served in non-supervisory positions.

To facilitate the interview, we designed a questionnaire comprised of 17 questions focusing on various aspects of the contracting officers' roles and responsibilities. The questions provided insight within the following areas:

- The degree of independence that contracting officers had to manage procurement workload across multiple missions;
- The contracting officers' role and responsibilities on strategic objective teams and with procurement planning;
- The degree of involvement by senior management in procurement decisions;
- How disagreements between contracting officers and senior management were handled and the consequences that resulted;
- The degree to which senior management and team members understood the contracting officers' legal and ethical responsibilities; and
- The contracting officers' reliance and frequency of utilizing the Washington, D.C. Office of Procurement staff for assistance, and how often the Procurement Executive Officer provided input for annual evaluations.

The participants interviewed were given the opportunity to review their responses, as interpreted by the auditor, and provide clarification or additional comments, which were incorporated into the final questionnaires.

## Management Comments



U.S. AGENCY FOR  
INTERNATIONAL  
DEVELOPMENT

January 7, 2002

### MEMORANDUM

TO: IG/A/PA Director, Dianne L. Rawl

FROM: M/OP, Mark S. Ward

SUBJECT: Draft Report on Audit of Contracting Officers' Independence at Selected  
USAID Missions Overseas

Thank you for the opportunity to review the draft. I am pleased to see that the audit findings indicate that current organizational and reporting structures do not impair Contracting Officers' independence in making procurement decisions. This confirms our understanding based on the procurement system reviews by M/OP's Evaluation Division. I appreciate the information concerning the need for CTO training as well.

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